

10/718,979

- 7 -

138303-1

REMARKS

This Amendment is in response to the Final Office Action of November 8, 2005 and the Advisory Action of January 18, 2006. This Amendment is being filed concurrently with a Request for Continued Examination (RCE). Applicants respectfully request reconsideration and entry of the Amendment. Claims 2 to 8, 10 to 12, 14, 17 to 19, 22 and 23 have been amended, claims 20 and 21 have been withdrawn, claims 1, 9, 13, 15 and 16 have been canceled, and new claims 24 to 26 have been presented.

Claims 1 to 19, 22 and 23 were rejected, and claims 20 and 21 are withdrawn from further consideration in the present application as being drawn to a non-elected invention.

Claim 9 was objected to under 37 C.F.R. 1.75(c) as being of improper dependent form for failing to limit the subject matter of a previous claim.

Claim 9 has been canceled by this Amendment. Applicants therefore respectfully request that the objection of claim 9 be reconsidered and withdrawn.

Claims 15 to 17 were rejected under 35 U.S.C. 102(b) as anticipated by, or in the alternative, under 25 U.S.C. 103(a) as obvious over, WO 00/26275.

Claim 17 has been amended to include the additional limitation that the medical device is an irradiated device and it comprises an ionizing radiation stabilizing additive wherein the ionizing radiation stable additive is an aliphatic alcohol or a diaryl sulfide. Applicants respectfully submit that the composition of WO 00/26275 does not comprise the ionizing radiation stabilizing additive of Applicants' claim 17. Additionally, Applicants respectfully submit that the yellowness shift is therefore not inherent, as suggested by the Examiner, because the compositions are not identical. Finally, Applicants' respectfully submit that the limitation regarding yellowness does not 'merely point what the yellowing index will be upon being irradiated', but instead, in the claim as amended, states that the shift in yellowness index of the irradiated medical device will be less than 40 YI units after irradiation at a certain radiation dose. Claims 15 and 16

10/718,979

- 8 -

138303-1

have been canceled by this Amendment. Applicants respectfully submit that since WO 00/26275 does not teach each and every limitation of Applicants' claim 17, the rejection of claim 17 as anticipated by WO 00/26275 should be reconsidered and withdrawn. Applicants also respectfully submit for the reasons discussed, Applicants' claim 17 is also not unpatentable over WO 00/26275. Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claims 15 to 17.

Claims 1 to 19 and 22 and 23 were also rejected under 35 U.S.C. 103(a) as being unpatentable over WO 00/26275 in view of 4,880,850 or EP439763. The Examiner stated that WO 00/26275 suggests adding stabilizing additives to the block copolymer, but does not name Applicants' preferred species. The Examiner further stated that 4,880,850 teaches that 2-methyl-2,4-pentandiol (hexylene glycol), is an appropriate stabilizer for polycarbonates and that EP439763 teaches that other species are stabilizers for polyestercarbonates. The Examiner concluded that it would have been obvious to utilize any of the stabilizers in 4,880,850 or EP438763 with the block copolymer to improve ionizing radiation resistance.

Applicants respectfully submit that WO 00/26275 does not suggest adding an ionizing radiation stabilizing additive to the composition, but instead, at page 24, line 23, WO 00/26275 suggests a long list of additional materials that may be added to the composition, including stabilizers generally. Additionally, WO 00/26275 does not disclose the irradiated article (or medical device) of Applicants' claims, as amended.

Applicants respectfully submit that WO 00/26275 does not suggest the surprising reductions in yellowness achieved by polyarylestercarbonate block copolymer compositions containing resorcinol. Applicants' data in Figures 2 and 3 shows that polyarylestercarbonate block copolymer compositions containing resorcinol (even when present in amounts as low as 4% and without any gamma stable additive present) can yield greater than 30% yellowness improvement over a polycarbonate composition at 75 kGy radiation exposure. Without having prior knowledge of that surprising

10/718,979

- 9 -

138303-1

improvement in yellowness, there would be no motivation by one skilled in the art to combine polyarylestercarbonate compositions containing resorcinol with ionizing radiation stable additives like those described in 4,880,850 and/or EP438763 to achieve the results obtained by the Applicants. Furthermore, one skilled in the art of using ionizing stable additives, such as hexylene glycol, with polycarbonate compositions to improve yellowing, would not expect the surprisingly greater percentage improvement achieved by the Applicants for polyarylestercarbonate compositions containing resorcinol with hexylene glycol (for example 54% at 50 kGY versus 30% for polycarbonate at 50 kGY (see the data at Figures 4 and 5)).

Applicants' claims 14, 17 and 18 also claim that the shift in YI of the irradiated article comprising the composition is less than a certain amount after radiation. None of the references, taken alone or in combination, contemplate or show this limitation.

For the reasons previously discussed, Applicants therefore respectfully request reconsideration and withdrawal of the rejection of claims 1 to 19, 22 and 23 under U.S.C 103(a).

New claims 24 to 26 have been presented. Claims 24 to 26 are dependent limitations on claims 17 and 18. Support for new claims 24 to 26 may be found in the original claims and the specification. Applicants respectfully submit that no new matter has been entered.

The examiner is invited to telephone Applicants' attorney if it is deemed that a telephone conversation will hasten prosecution of the application.

10/718,979

- 10 -

138303-1

CONCLUSION

Applicants respectfully request reconsideration and allowance of each of the objected and rejected claims, claims 1 to 19, 22 and 23. Applicants respectfully request allowance of claims 2 to 8, 10 to 12, 14, 17 to 19, and 22 to 26, the claims currently pending.

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